

ESTTA Tracking number: **ESTTA349541**

Filing date: **05/26/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91184529
Party	Plaintiff Georgia-Pacific Consumer Products LP
Correspondence Address	Charlene R. Marino Kilpatrick Stockton, LLP 1100 Peachtree Street, Suite 2800 Atlanta, GA 30309 UNITED STATES cmarino@kilpatrickstockton.com
Submission	Answer to Counterclaim
Filer's Name	Charlene R. Marino
Filer's e-mail	cmarino@kilstock.com, chenn@kilstock.com, kteilhaber@kilstock.com, tmadmin@kilstock.com
Signature	/Charlene R. Marino/
Date	05/26/2010
Attachments	2010.05.26 Opposer's Reply to Applicant's Counterclaims.pdf (9 pages)(19905 bytes)

GEORGIA-PACIFIC CONSUMER)	
PRODUCTS LP,)	
)	
Opposer,)	Opposition No.: 91184529
)	
v.)	
)	
GLOBAL TISSUE GROUP, INC.)	
)	
Applicant.)	
)	

Opposer Georgia-Pacific Consumer Products LP (“Georgia-Pacific”), respectfully submits its Answer to the Counterclaims for Cancellation (“Counterclaims”) filed by Applicant Global Tissue Group (“Global Tissue”) in the above-referenced matter. Georgia-Pacific denies any averments not expressly admitted and responds to the numbered paragraphs of the Counterclaims as follows:

- US2008 1297262.3

“Registrations”). Georgia-Pacific denies that Global Tissue is being or will be damaged by the Registrations or marks that are the subject of the Registrations. Georgia-Pacific further denies that any grounds exist for cancellation of the Registrations or for requiring a disclaimer on any of the Registrations, but acknowledges that Global Tissue has filed the Counterclaims for Cancellation seeking such relief.

Count 1: U.S. Reg. No. 2,872,813

45. In response to paragraph 45, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

46. Georgia-Pacific admits the averments in paragraph 46 of the Counterclaims.

47. Georgia-Pacific admits the averments in paragraph 47 of the Counterclaims.

48. Georgia-Pacific denies the averments in paragraph 48 of the Counterclaims.

Count 2: U.S. Reg. No. 2,957,128

49. In response to paragraph 49, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

50. Georgia-Pacific admits the averments in paragraph 50 of the Counterclaims.

51. Georgia-Pacific admits the averments in paragraph 51 of the Counterclaims.

52. Georgia-Pacific denies the averments in paragraph 52 of the Counterclaims.

53. Georgia-Pacific denies the averments in paragraph 53 of the Counterclaims.

54. Georgia-Pacific denies the averments in paragraph 54 of the Counterclaims.

Count 3: U.S. Reg. No. 3,170,713

55. In response to paragraph 55, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

56. Georgia-Pacific admits the averments in paragraph 56 of the Counterclaims.

57. Georgia-Pacific admits the averments in paragraph 57 of the Counterclaims.

58. In response to paragraph 58, Georgia-Pacific admits that “ACOLCHINADO” translates into English as “QUILTED.” Georgia-Pacific denies the remaining averments contained in paragraph 58 of the Counterclaims.

59. Georgia-Pacific denies the averments in paragraph 59 of the Counterclaims.

60. Georgia-Pacific denies the averments in paragraph 60 of the Counterclaims.

Count 4: U.S. Reg. No. 2,933,048

61. In response to paragraph 61, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

62. Georgia-Pacific denies that Registration No. 2,933,048 is less than five years old, but admits remaining averments in paragraph 62 of the Counterclaims.

63. Georgia-Pacific admits the averments in paragraph 63 of the Counterclaims.

64. Georgia-Pacific denies the averments in paragraph 64 of the Counterclaims.

65. Georgia-Pacific denies the averments in paragraph 65 of the Counterclaims.

66. Georgia-Pacific denies the averments in paragraph 66 of the Counterclaims.

67. Georgia-Pacific admits the averments in paragraph 67 of the Counterclaims.

68. Georgia-Pacific denies the averments in paragraph 68 of the Counterclaims.

Count 5: U.S. Reg. No. 3,069,376

69. In response to paragraph 69, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

70. Georgia-Pacific admits the averments in paragraph 70 of the Counterclaims.

71. Georgia-Pacific admits the averments in paragraph 71 of the Counterclaims.

72. Georgia-Pacific denies the averments in paragraph 72 of the Counterclaims.

- 73. Georgia-Pacific denies the averments in paragraph 73 of the Counterclaims.
- 74. Georgia-Pacific denies the averments in paragraph 74 of the Counterclaims.
- 75. Georgia-Pacific admits the averments in paragraph 75 of the Counterclaims.
- 76. Georgia-Pacific denies the averments in paragraph 76 of the Counterclaims.

Count 6: U.S. Reg. No. 2,968,615

77. In response to paragraph 77, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

- 78. Georgia-Pacific admits the averments in paragraph 78 of the Counterclaims.
- 79. Georgia-Pacific admits the averments in paragraph 79 of the Counterclaims.
- 80. Georgia-Pacific denies the averments in paragraph 80 of the Counterclaims.
- 81. Georgia-Pacific admits the averments in paragraph 81 of the Counterclaims.

Count 7: U.S. Reg. No. 3,463,900

82. In response to paragraph 82, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

83. Georgia-Pacific admits the averments in paragraph 83 of the Counterclaims, except that it notes that Registration No. 3,463,900 is for the mark Q ULTRA QUILTED NORTHERN & Design.

- 84. Georgia-Pacific denies the averments in paragraph 84 of the Counterclaims.
- 85. Georgia-Pacific admits the averments in paragraph 85 of the Counterclaims.

Count 8: U.S. Reg. No. 3,463,899

86. In response to paragraph 86, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

87. Georgia-Pacific admits the averments in paragraph 87 of the Counterclaims, except that it notes that Registration No. 3,463,899 is for the mark Q QUILTED NORTHERN and design.

88. Georgia-Pacific denies the averments in paragraph 88 of the Counterclaims.

89. Georgia-Pacific admits the averments in paragraph 89 of the Counterclaims.

Count 9: U.S. Reg. No. 3,018,501

90. In response to paragraph 90, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

91. Georgia-Pacific admits the averments in paragraph 91 of the Counterclaims.

92. Georgia-Pacific admits the averments in paragraph 92 of the Counterclaims.

93. Georgia-Pacific denies the averments in paragraph 93 of the Counterclaims.

94. Georgia-Pacific admits the averments in paragraph 94 of the Counterclaims.

Count 10: U.S. Reg. No. 3,293,547

95. In response to paragraph 95, Georgia-Pacific states that there are no Paragraphs 1 through 3 included in the Counterclaims as alleged by Global Tissue in this paragraph.

96. Georgia-Pacific admits the averments in paragraph 96 of the Counterclaims.

97. Georgia-Pacific admits the averments in paragraph 97 of the Counterclaims.

98. Georgia-Pacific denies the averments in paragraph 98 of the Counterclaims.

99. Georgia-Pacific admits the averments in paragraph 99 of the Counterclaims.

Count 11: U.S. Reg. No. 3,463,460

100. In response to paragraph 100, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

101. Georgia-Pacific admits the averments in paragraph 101 of the Counterclaims.

102. Georgia-Pacific denies the averments in paragraph 102 of the Counterclaims.

103. Georgia-Pacific admits the averments in paragraph 103 of the Counterclaims.

Count 12: U.S. Reg. No. 2,980,757

104. In response to paragraph 104, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

105. Georgia-Pacific admits the averments in paragraph 105 of the Counterclaims.

106. Georgia-Pacific denies the averments in paragraph 106 of the Counterclaims.

107. Georgia-Pacific admits the averments in paragraph 107 of the Counterclaims.

Count 13: U.S. Reg. No. 3,642,378

108. In response to paragraph 108, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

109. Georgia-Pacific admits the averments in paragraph 109 of the Counterclaims.

110. Georgia-Pacific denies the averments in paragraph 110 of the Counterclaims.

111. Georgia-Pacific admits the averments in paragraph 111 of the Counterclaims.

Count 14: U.S. Reg. No. 3,517,622

112. In response to paragraph 112, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

113. Georgia-Pacific admits the averments in paragraph 113 of the Counterclaims.

114. Georgia-Pacific denies the averments in paragraph 114 of the Counterclaims.

115. Georgia-Pacific admits the averments in paragraph 115 of the Counterclaims.

Count 15: U.S. Reg. No. 3,642,213

116. In response to paragraph 116, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

117. Georgia-Pacific admits the averments in paragraph 117 of the Counterclaims, except that it notes that Registration No. 3,642,213 is for the mark Q QUILTED NORTHERN SOFT & STRONG & Design.

118. Georgia-Pacific denies the averments in paragraph 118 of the Counterclaims.

119. Georgia-Pacific admits the averments in paragraph 119 of the Counterclaims.

Count 16: U.S. Reg. No. 3,532,136

120. In response to paragraph 120, Georgia-Pacific repeats and incorporates by reference its answers to paragraphs 39 through 44.

121. Georgia-Pacific admits the averments in paragraph 121 of the Counterclaims, except that it notes that Registration No. 3,532,136 is for the mark Q ULTRA QUILTED NORTHERN OUR SOFTEST EVER! (with an exclamation point) & Design.

122. Georgia-Pacific denies the averments in paragraph 122 of the Counterclaims.

123. Georgia-Pacific admits the averments in paragraph 123 of the Counterclaims.

In response to the Prayer for Relief, Georgia-Pacific denies that Global Tissue is being or will be damaged by the Registrations. Georgia-Pacific is without knowledge or information sufficient to form a belief as to the truth or falsity of the averments that Global Tissue does not claim trademark rights in the terms “Quilted,” “Quilting,” or “Quilts.”

Georgia-Pacific denies that any grounds exist for cancellation of the Registrations or for requiring a disclaimer of the word “Quilted” or “Quilts” or that Global Tissue is entitled to any form of relief.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Counterclaims for Cancellation fail to state a claim upon which relief can be granted.

Second Affirmative Defense

The Counterclaims for Cancellation are barred by the equitable doctrine of laches.

Third Affirmative Defense

The Counterclaims for Cancellation are barred by the equitable doctrine of acquiescence.

Fourth Affirmative Defense

The Counterclaims for Cancellation are barred by the equitable doctrine of waiver.

Fifth Affirmative Defense

The Counterclaims for Cancellation are barred by the equitable doctrine of estoppel.

Sixth Affirmative Defense

Global Tissue has brought the Counterclaims for Cancellation for improper purposes and with unclean hands.

Seventh Affirmative Defense

Georgia-Pacific reserves the right to assert any additional affirmative defenses as may arise during the course of additional investigation and discovery.

Georgia-Pacific prays that the Counterclaims for Cancellation be denied and dismissed with prejudice, and that Global Tissue take nothing for this action.

DATED: May 26, 2010.

/s/ Charlene R. Marino
R. Charles Henn Jr.
Charlene R. Marino
KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4530
Telephone: (404) 815-6500
Facsimile: (404) 815-6555

Attorneys for Opposer Georgia-Pacific
Consumer Products LP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GEORGIA-PACIFIC CONSUMER
PRODUCTS LP,

Opposer,

v.

GLOBAL TISSUE GROUP, INC.

Applicant.

Opposition No.: 91184529
Serial No.: 77/364,616

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date, May 26, 2010, a copy of Opposer's Answer and Affirmative Defenses to Applicant's Counterclaims has been served upon Applicant, by email and by U.S. mail, to Applicant's current identified counsel, as set forth below:

Charles R. Hoffmann
R. Glenn Schroeder
Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, New York 11791

/s/ Charlene R. Marino
Charlene R. Marino

Attorney for Opposer Georgia-Pacific
Consumer Products LP